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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/197, 908      11/23/98      HERBST

A      NEWMRKTP98-1

LMC1/0615

 EXAMINER

PETER K. TRZYNA  
PO BOX 7131  
CHICAGO IL 60680

RETTA, Y

ART UNIT	PAPER NUMBER
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2764

*S***DATE MAILED:**      06/15/00

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No. 09/197,908	Applicant(s) Herbst et al.
Examiner Yehdega Retta	Group Art Unit 2764



Responsive to communication(s) filed on Apr 3, 2000

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claim

- Claim(s) 1-20 is/are pending in the application.  
Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 Claim(s) \_\_\_\_\_ is/are allowed.  
 Claim(s) 1-20 is/are rejected.  
 Claim(s) \_\_\_\_\_ is/are objected to.  
 Claims \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.  
 The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.  
 The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.  
 The specification is objected to by the Examiner.  
 The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).  
 All  Some\*  None of the CERTIFIED copies of the priority documents have been  
 received.  
 received in Application No. (Series Code/Serial Number) \_\_\_\_\_.  
 received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

- Notice of References Cited, PTO-892  
 Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_  
 Interview Summary, PTO-413  
 Notice of Draftsperson's Patent Drawing Review, PTO-948  
 Notice of Informal Patent Application, PTO-152

-- SEE OFFICE ACTION ON THE FOLLOWING PAGES --

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## DETAILED ACTION

### *Response to Amendment*

1. This office action is in response to amendment filed April 3, 2000. Claims 1 and 16-20 have been amended.

### *Claim Rejections - 35 USC § 112*

2. Claims 1, 16-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Regarding claims 1, 19 and 20, the applicant states that there is a discussion of financial characteristics of preferred-return instruments in the specification, on page 10, line 28, etc. The Examiner agrees that page 10 of the specification discusses that the step of entering financial characteristics includes entering a preferred return for the instrument, entering a face value of the instrument, etc, however, it does not define “preferred-return instruments”. The applicant gave definition of “preferred return instrument” as “preferred stock” and further gave definitions of individual words (prefer, return and instrument) from a dictionary. However the definitions of individual words is not helpful. The applicant further defined “preferred stock” as a stock that carries a fixed, specific dividend....as such is senior to common stock and that security contract

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protect priorities to interest ... and the applicant noted that the interest, dividends and principal payments are the preferred return and that the preferred return is measured as an interest rate by computing the yield to maturity.... However, the example cited by the applicant do not define "preferred return" as applicant states.

Applicants comments created uncertainty regarding whether applicant intends to claim a generic method involving returns of instruments that happen to be preferred or whether applicant's method calculates a valuation that reflects the instruments' priority to payment during default. Therefore, it is not clear what is considered "sufficient financial characteristics for computing a price for preferred return instruments representing investments".

Since it is not clearly defined what "preferred-return instruments" stands for, it is also not clear what entering amounts that buyers wants to buy and entering amounts that sellers wants to sell means. It is not clear "amounts of what" the buyers and sellers are buying and selling.

Clarification is also requested on "computing a demand schedule", and "computing a supply schedule" and generating the output including respective amounts of the instruments... Demand and supply schedule are not clearly defined in applicant's specification.

Regarding claim 16, recites utilizing said data (price or preferred rate of return for instrument produced at first computer), in generating a second output representing respective amounts of preferred-return instruments respectively in association with the current preferred return or the price. Since there is lack of clear definition for the "preferred-return instruments"

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(see comment stated above), the Examiner could not conclude what is considered “respective amount of preferred-return instruments”. Clarification is required.

4. Regarding claim 17, see the rejection of claim 16 above.
5. Regarding claim 18, see the rejection stated above regarding “preferred return investment”.
6. Claims 2-15 are rejected because by their dependence they include the language of a rejected base claim.

*Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (703) 305-0436. The examiner can normally be reached on Monday-Friday from 7:30 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768.

Any response to this office action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

or faxed to:

(703) 308-9051, (for formal communications intended for entry)

or:

(703) 308-5397, (for informal or draft communications, please label “PROPOSED” or “DRAFT”)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive Arlington, Virginia, (Receptionist).

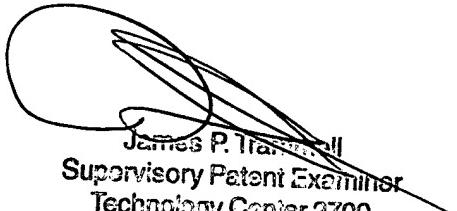
Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

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Examiner  
Yehdega Retta  
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June 13, 2000



James P. Trammell  
Supervisory Patent Examiner  
Technology Center 2700